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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,788	10/27/2003	Aaron L. Mills	FGT 1867 PA	2787
28549	7590	08/08/2006	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH ROAD, SUITE 250 SOUTHFIELD, MI 48034			MANCHO, RONNIE M	
			ART UNIT	PAPER NUMBER
			3663	
DATE MAILED: 08/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/605,788

Applicant(s)

MILLS ET AL.

Examiner

Ronnie Mancho

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-9, 11, 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of the claims of group (I) and the species indicated in the reply filed on 5/19/06 is acknowledged.

2. Claims 4, 5, 10, and 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/19/06.

Claims 4, 5, 10 are withdrawn from further consideration because they do not fall within the elected species cited in the response filed 5/19/06. Therefore, only claims 1-3, 6-9, 11, 12 are considered for patentability.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In claim 3, It is not clear what all is meant and encompassed by "passive off-board" as disclosed in the claim.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 6-9, 11, 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Salmeen et al (2004/0114381).

Regarding claim 1, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose a wireless vehicle communication update system for a vehicle comprising:

a vision sensor 16 0027, 0029, 0033-0035) sections coupling a vehicle body of the vehicle and wirelessly detecting a vehicle information signal from an off-board vehicle setting update device having setting information for the vehicle; and a vehicle controller updating at least one vehicle setting in response to said vehicle information signal (sections 0027, 0029, 0033-0035).

Regarding claim 2, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 1 wherein said vision sensor comprises at least one vision sensor selected from a camera, a charged-coupled device (section 0035).

Regarding claim 3, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 1 wherein said vision sensor detects said vehicle information signal from a passive off-board vehicle setting update device.

Regarding claim 6, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 1 wherein said vision sensor detects said vehicle information signal from an off-board vehicle setting update system.

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Regarding claim 7, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 6 wherein said off-board vehicle setting update system comprises:

a transmitter transmitting (fig. 1) said vehicle information signal in response to a pulse-coded signal (see prior art digital processor, fig. 1, sec. 0026, 0035);

a signal generator generating said pulse-coded signal (transponder, fig. 1); and

an update controller 18 (fig. 1) determining said at least one vehicle setting to update and causing generation and transmission of said pulse-coded signal and said vehicle information signal in response to said at least one vehicle setting (sections 0027, 0029, 0033-0035).

Regarding claim 8, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 1 further comprising:

a signal processor receiving and formatting said vehicle information signal for said vehicle controller, said vehicle controller updating said at least one vehicle setting in said formatted vehicle information signal in response to said formatted vehicle information signal (sections 0027, 0029, 0033-0035).

Regarding claim 9, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 1 wherein said controller in updating said at least one setting comprises adjusting at least one setting selected from a memory setting (sections 0027, 0029, 0033-0035).

Regarding claim 11, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim 1 further comprising an indicator coupled to said vehicle controller and indicating at least one current vehicle setting.

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Regarding claim 12, Salmeen et al (figs. 1-6, abstract; sections 0010-0016, 0027, 0029, 0033-0035) disclose the system as in claim further comprising an indicator coupled to said vehicle controller and indicating when said vehicle information signal is received (sections 0027, 0029, 0033-0035).

**MPEP 2114**

8. The statement of intended use or field of use, "updating-----in response to", "transmitting .....in response to", "determining.....to", "causing generation and transmission of.....in response to", "receiving and formatting", "updating.....in response to", "updating.....comprises adjusting", "indicating when.....is received", etc clauses are essentially method limitation or statement of intended or desired use. Thus, the claim as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647. See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2nd 1647.

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

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As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

***Communication***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho  
Examiner  
Art Unit 3663

August 4, 2006

  
JACK KEITH  
SUPERVISORY PATENT EXAMINER